

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2266 of 2004

Hasmukhrai V. Mehta .. Petitioner
versus
State of Maharashtra & ors. .. Respondents

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Mr.S.M. Railkar for the petitioner.

Mr.P.M.Patil, AGP for respondent nos.1 to 3.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 17th July 2007.

P.C.:

. Heard.

2. The petitioner has approached this Court to declare that the petitioners lands bearing survey no.60, Hissa no.3 and survey no.18, Hissa no.4

situate at Village, Sheel, Taluka Khopoli stand released from reservations in terms of provisions of section 49 and section 127 of the Maharashtra Regional Town Planning Act 1966 and that the petitioner is free to develop the said land and use it. It appears that the draft development scheme was published in the year 1992; the objection to the said draft scheme was submitted by the petitioner on or about 4th May 1996 and thereafter the scheme was finalised by the Government vide order TPS/1799/307/CR-125/99/UD-12 dated 31st March 2003. In the final development plan, the land of the petitioner was reserved for Truck Terminal for the purposes of agricultural market committee. While the said scheme was in process of finalisation, it appears that the petitioner issued a notice dated 17th August 2000 invoking the provisions of section 49. At that time, scheme was not finalised and therefore, there was no question of application of section 49 and the procedure of section 49 could not be adopted. The other ground which the petitioner claims is under section 127. However, section 127 contemplates that the land is not acquired by the planning authority after the reservation for a period of more than 10 years. In the present matter, the

plan was finalised in March 2003 and therefore when the notice was given, the period of 10 years had not elapsed and therefore notice under section 127 was incompetent. Thus viewed from any angle, we do not find any substance in the matter.

2. Petition is hereby rejected.

(D.G. KARNIK, J)

(S.B. MHASE, J)